

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF NEW YORK**

JAMEL SHULER,

Plaintiff,

v.

No. 06-CV-792
(FJS/DRH)

QUINN, Sgt., Upstate Correctional Facility;
CAPTAIN BEZIO, Upstate Correctional facility;
SUPT. WOODS, Upstate Correctional Facility;
J. ARMSTRONG, Correctional Officer, Upstate
Correctional Facility; GRIFFEN, Correctional
Officer, Upstate Correctional Facility; and JOHN
DOE, Correctional Officer, Upstate Correctional
Facility,

Defendants.

APPEARANCES:

OF COUNSEL:

JAMEL SHULER
Plaintiff Pro Se
98-A-1916
Shawangunk Correctional Facility
Post Office Box 700
Wallkill, New York 12589

HON. ANDREW M. CUOMO
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New York
Attorney for Defendants
The Capitol
Albany, New York 12224

JEFFREY P. MANS, ESQ.
Assistant Attorney General

**DAVID R. HOMER
U.S. MAGISTRATE JUDGE**

REPORT-RECOMMENDATION AND ORDER¹

Plaintiff pro se Jamel Shuler ("Shuler"), an inmate in the custody of the New York State Department of Correctional Services (DOCS), commenced this action on June 26,

¹This matter was referred to the undersigned for report and recommendation pursuant to 28 U.S.C. § 636(b) and N.D.N.Y.L.R. 72.3(c).

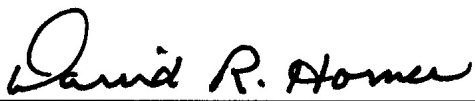
2006 alleging that defendants, five named DOCS employees and one "John Doe" defendant, seeking recovery for violation of his civil rights under 42 U.S.C. § 1983. Compl. (Docket No. 1). By letter dated October 12, 2007, counsel for defendants submitted the affidavit of Shuler in which Shuler states that he wishes to discontinue this action. Docket No. 30. Defendants agree to the discontinuance. Id.

WHEREFORE, pursuant to Fed. R. Civ. P. 41(a)(1)(ii), it is hereby

RECOMMENDED that the above-captioned case be **DISMISSED** in its entirety in accordance with the stipulation of the parties.

Pursuant to 28 U.S.C. § 636(b)(1), the parties may lodge written objections to the foregoing report. Such objections shall be filed with the Clerk of the Court. **FAILURE TO OBJECT TO THIS REPORT WITHIN TEN DAYS WILL PRECLUDE APPELLATE REVIEW.** Roldan v. Racette, 984 F.2d 85, 89 (2d Cir. 1993); Small v. Sec'y of HHS, 892 F.2d 15 (2d Cir. 1989); 28 U.S.C. § 636(b)(1); Fed. R. Civ. P. 72, 6(a), 6(e).

Dated: October 17, 2007
Albany, New York


United States Magistrate Judge